



PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference KFE0078WO		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)
International application No. PCT/JP 03/02431	International filing date (day/month/year) 03.03.2003	Priority date (day/month/year) 04.03.2002
International Patent Classification (IPC) or both national classification and IPC A61L2/04, A61L2/04		
Applicant KUREHA CHEMICAL INDUSTRY COMPANY, LIMITED et al.		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 5 sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>		
Date of submission of the demand 24.09.2003		Date of completion of this report 16.06.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Persichini, C Telephone No. +49 89 2399-8617 

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EXAMINATION REPORT**

International application No. **PCT/JP 03/02431**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-28 as originally filed

Claims, Numbers

1-11, 15-24 received on 27.09.2003 with letter of 24.09.2003

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☒ the claims, Nos.: 12,13,14
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-11,15-18,23,24
	No: Claims	19-22
Inventive step (IS)	Yes: Claims	
	No: Claims	1-11, 15-24
Industrial applicability (IA)	Yes: Claims	1-11, 15-24
	No: Claims	

2. Citations and explanations

see separate sheet

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D1: US-A-6 022 913
D2: EP-A-1 176 002
D3: US-A-4 818 592
D4: US-A-4 355 721

1. The present set of claims does not meet the requirements of Art. 6 PCT:
 - 1.1 The formulation "for a packaging product" in eg claim 1 is interpreted to mean "for a packaged product".
 - 1.2 The wording of product claim 19 is not suitable to clearly define the structure of the "packaged product" (claim 19 can even be interpreted to claim only the product).
 - 1.3 It is not clear which limitation exactly is imposed by the expression "a haze below 20%" to the subject-matter of claims 20 and 21 (see also "PCT International Preliminary Examination Guidelines, chapter III, items 4.5 and 4.7a).
2. Each of the pouch according to comparative example 6 of D1, the package according to paragraph 0048 in context with paragraph 0020 and 0021 of D2, the pouch according to D3, column 4, lines 7 to 23 and the package according to D4, column 4, line 22 to 29 is considered to be novelty-destroying for the subject-matter of claim 21. Consequently, this claim does not meet the requirements of Art. 33(2) PCT.
3. Document D4 discloses a method wherein a product is enclosed within a packaging material comprising a layer of hydrophilic gas-barrier ethylene-vinyl alcohol copolymer (D4, column 3, line 65 to column 4, line 29) and the packaged product is heat-treated with hot water.

From this method the subject-matter of claim 1 differs in that the hot water is caused to contain a arbitrary water soluble compound.

However, the utilisation of water containing a water-soluble compound in order to improve the quality of the packaging material not only in hot-water resistance but also in oxygen barrier property is well known in the art (see document D1 which also deals with hot water treatment of a product packed into a packaging material comprising a layer of hydrophilic gas-barrier resin; D1, column 3, lines 41 to 59, column 8, lines 23 to 35 and column 10, lines 55 to 68).

Consequently, the subject-matter of claim 1 cannot be considered to be based on

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an inventive step. Claim 1 does not meet the requirements of Art.33(3) PCT.

4. No difference can be seen between the packaged product of eg document D4 and the subject-matter of claim 19. Thus, claim 19 does not meet the requirements of Art. 33(2) PCT.
5. The features of the dependent claims are either also disclosed in D1 (see especially column 3, lines 26 to 59), D2, D3 or D4 or are evident in the light of the general knowledge of the skilled person. Consequently, the dependent claims do not meet the requirements of Art. 33(2) or (3) PCT, either.